



Memorandum

Date: March 2, 1999

To: CALFED Policy Group

From: Lester A. Snow *May 1999*

Subject: Governance

Summary

In late 1998, both the Policy Group and BDAC directed CALFED staff and the BDAC Governance Workgroup to expand their discussions on governance to include the framework for overall CALFED governance in addition to continuing their discussions on ecosystem governance. Policy Group and BDAC were willing to consider a recommendation or decision on an ecosystem entity only if the relationship between a CALFED oversight entity and an implementation entity for the ERP was made more clear (this is also true of the relationship between an oversight entity and the other CALFED programs such as water quality, levees, etc). In addition, at the February Policy Group meeting, the issue of governance was briefly discussed, and staff were asked to identify any actions that could occur in 1999 which would begin to resolve some of the ERP governance concerns.

In January the BDAC Governance Work Group discussed the functions of a CALFED oversight entity and its potential relationship to the implementation entities for the CALFED programs (either new entities or existing agencies). Additional stakeholder discussions have occurred to further refine the functions and concerns for both CALFED oversight and ecosystem governance. These discussions will continue at the March 9 BDAC Governance Work Group and at the full BDAC meeting in late March. At the Policy Group meeting, CALFED staff will report on the status of these and other stakeholder discussions.

In response to the Policy Group interest in initial steps that can begin in 1999 to address the ERP governance and implementation, CALFED staff have drafted a straw proposal for your review and concurrence.

CALFED Agencies

California

The Resources Agency
Department of Fish and Game
Department of Water Resources
California Environmental Protection Agency
State Water Resources Control Board

Federal

Environmental Protection Agency
Department of the Interior
Fish and Wildlife Service
Bureau of Reclamation
U.S. Army Corps of Engineers

Department of Agriculture
Natural Resources Conservation Service
Department of Commerce
National Marine Fisheries Service

Action: Concurrence Item

The Policy Group is being asked for concurrence to pursue a proposal for a State Conservancy. This proposal is an interim 2 year strategy in order to facilitate ERP governance concerns as soon as possible. Discussion with CALFED agencies and stakeholders will continue during the 2 years to identify the appropriate long term strategy for ERP governance.

Detailed Discussion

CALFED staff are continuing to work with CALFED agencies and stakeholders on the long term governance structures needed to implement the CALFED program. As indicated in the Phase II Report, CALFED supports the need for an entity to provide coordinated oversight and policy guidance for the CALFED Program as a whole as well as for each of the programs (water quality, ecosystem, levees, etc).

Initially, the primary focus has been on defining the CALFED oversight and the ecosystem governance structures. There has been a great deal written and researched over the last two years on both these topics, which we have tried to summarize in the attachments below..

CALFED is in the process of working with stakeholders and CALFED agencies to identify and then evaluate each of the governance options for CALFED oversight and for the ecosystem program. The evaluation process includes identifying the general issues to consider when designing a governing structure; identifying the primary functions and objectives for the governing structure; identifying the governance options to evaluate; and evaluating each option using the general issues, functions, and principles. The following information is attached for your information.

- Attachment 1-- Includes the proposed functions and authorities for a CALFED oversight governance structure. The advantages and disadvantages of the oversight governance options have not yet been evaluated.
- Attachment 2-- Includes the proposed functions and principles that should guide the design of an ecosystem governance structure.
- Attachment 3-- Includes description and evaluation of the five ecosystem governance options:
 - 1) existing governance structure,
 - 2) new public corporation,
 - 3) new private non profit organization,
 - 4) new State/Federal governmental entity,
 - 5) new state entity with federal involvement

- Attachment 4-- Includes a straw proposal for initial actions on ecosystem governance

Initial steps in 1999 -- Straw Proposal. If supported by Policy Group, the attached straw proposal would be introduced as a two year bill. The legislation would act as a placeholder as the debate and discussions continue with stakeholders and CALFED agencies on the long term governance options. To the extent support is provided for a state entity as an interim step or long- term structure, the legislation and governance structure would be in place sooner.

In addition, there are several other potential reasons for proceeding with state legislation this year:

- All the other ecosystem governance options for a new entity would involve federal legislation, which could take many years before a new long-term governance structure could be developed. A more near term concern is that \$390 million from Proposition 204 will be triggered at the time of the ROD, and the Program needs to have a more efficient process in place to manage those funds.
- There may be an interest in the Legislature this year to introduce CALFED governance legislation. CALFED would be in a better position to influence proposed legislation if we had a proposal for both overall governance and ecosystem governance.
- With the new state administration, there may be an interest in identifying initial steps that can be taken to address some of the governance issues.

Stakeholder concerns. CALFED has been working with agricultural, urban, environmental, and business interests to understand their concerns and preferences regarding CALFED governance. The strongest opinions expressed at this point are from the environmental stakeholders, who have expressed opposition to an interim strategy and a preference for focusing only on the long term strategy. In addition, they have a strong preference for an ecosystem governance structure that is a joint state and federal entity rather than a state entity. They believe that the primary benefits of the joint entity, preferably a public corporation, are the ability to consolidate existing ecosystem programs and funding, to offer the greater efficiency and flexibility of a quasi-governmental entity, and the greater ability to structure the private board member representation. Staff will provide a report on the other stakeholder concerns at the Policy Group meeting